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Attorneys for: Plaintiff CHARLES N. PEREZ

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(San Jose Division)

CHARLES N. PEREZ,

Plaintiff,

v.

EMERGENCY HOUSING
CONSORTIUM, a California not for profit
corporation, EHC LIFEBUILDERS, and
MONTEREY TERRACE APARTMENTS,

Defendants..

Case No.: C07-05690 PVT

DECLARATION OF ANNETTE D.
KIRKHAM IN SUPPORT OF
PLAINTIFF CHARLES PEREZ'S EX
PARTE APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND AN ORDER TO SHOW
CAUSE RE PRELIMINARY
INJUNCTION TO ENJOIN
DEFENDANTS FROM EVICTING
PLAINTIFF.

Hearing Date: November 28, 2007 or as
soon as this matter may be heard.

Time: 9:00 a.m., or as soon as this matter
may be heard

Courtroom: 5

Judge: Magistrate Judge Patricia Trumbull

I, Annette D. Kirkham, declare:

I am attorney an attorney with the Law Foundation of Silicon Valley's Fair Housing
Law Project ("FHLPP"). I represent plaintiff Charles Perez in the above-captioned action. I am a

DECLARATION OF ANNETTE D. KIRKHAM IN SUPPORT OF PLAINTIFF'S EX PARTE APPLICATION FOR
TEMPORARY RESTRAINING ORDER AND OSC RE PRELIMINARY INJUNCTION
C07-05690 PVT

1 member in good standing of the State Bar and am admitted to practice before this Court. I make
2 the following declaration in support of this *ex parte* Application. This declaration is based on my
3 own personal knowledge unless otherwise stated and, if called as a witness, I could and would
4 testify competently to the matters stated herein.

5
6 2. To satisfy Federal Rule of Civil Procedure 65 and Civil Local Rule 65-1(b), at
7 approximately 12:10 p.m. (PST), on November 27, 2007, I sent a letter by facsimile to Defendants
8 Emergency Housing Consortium, Inc, EHC Lifebuilders and Monterey Terrace Apartments,
9 notifying Defendants of Mr. Perez's intention to present this *ex parte* Application to the Court on
10 Wednesday, November 28, 2007. A true and correct copy of that facsimile and letter is attached
11 hereto as Exhibit A.

12 3. Plaintiff Charles Perez is a tenant at Markham Terrace Apartments, located at 2112
13 Monterey Road, in San Jose, California. Markham Terrace Apartments is a subsidized housing
14 complex.

15 4. Mr. Perez has lived at Markham Terrace since December 2005. Mr. Perez receives
16 Supplemental Security Income in the amount of \$830 each month. Mr. Perez pays only \$260 for
17 rent each month. If he is evicted from his apartment he will likely become homeless since it will
18 be extremely difficult to find alternative housing with his limited income.

19 5. Mr. Perez is a 61 year old, seriously disabled man who suffers from numerous health-
20 related disabilities. Mr. Perez is legally blind and he has diabetes, end-stage kidney disease and
21 chronic lung disease. If these illnesses are not controlled Mr. Perez's doctor has stated that Mr.
22 Perez could lapse into a coma or even possibly die.

23 6. In February 2007, Mr. Perez requested an in-home caregiver to help him manage the
24 symptoms of his disabilities and to prevent him from injuring himself. Defendants did not respond
25 to Mr. Perez's reasonable accommodation request therefore Mr. Perez believed that his request had
26 been granted. Mr. Perez then obtained the assistance of his son, Jason, to provide in-home support.

27 7. On August 31, 2007, Defendants gave Mr. Perez a 60-Day Notice to Terminate
28 Tenancy. The stated reason for the Notice was that Mr. Perez had an unauthorized occupant living

1 with him in the unit. A true and correct copy of the August 31, 2007, 60-Day Notice is attached
2 hereto as Exhibit B.

3
4 8. On September 2, 2007, Mr. Perez gave Defendants a letter disputing the allegations
5 in the 60-Day Notice. Mr. Perez once informed Defendants of his disabilities and his need for an
6 in-home caregiver. A true and correct copy of Mr. Perez's letter to Defendants dated September 2,
7 2007 is attached hereto as Exhibit C.

8
9 9. Instead of responding to Mr. Perez's letter, Defendants issued yet another 60-day
10 Notice on September 12, 2007. This 60-Day Notice is scheduled to expire on November 12, 2007.
11 Defendants could proceed with an unlawful detainer action as early as November 13, 2007. A true
12 and correct copy of the 60-Day Notice dated September 12, 2007 is attached hereto as Exhibit D.

13
14 10. On October 16, 2007, I renewed Mr. Perez's accommodation request for an in-home
15 caregiver and asked that Defendants rescind the 60-Day Notice. I attached a copy of Mr. Perez's
16 doctor's letter in support of an in-home caregiver. A true and correct copy of my letter to
17 Defendants dated October 16, 2007 is attached hereto as Exhibit E, a true and correct copy of Dr.
18 Saxena's supporting letter dated September 28, 2007 is attached hereto as Exhibit F.

19
20 11. On October 23, 2007, I spoke with Defendants' counsel, Ryan Mayberry with regard
21 to Mr. Perez's accommodation request and the status of the 60-Day Notice. Mr. Mayberry told me
22 that he would talk with his client and get back to me with their response.

23
24 12. On November 2, 2007, I still had not heard from Defendants regarding Mr. Perez's
25 request for accommodation or the status of the 60-Day Notice. Therefore, I sent another letter to
26 Defendants attorney asking that he let me know the status of Mr. Perez's outstanding requests. A
27 true and correct copy of my letter to Defendants dated November 2, 2007 is attached hereto as
28 Exhibit G.

13. On November 2, 2007, my colleague Katherine Haas, from Mental Health Advocacy
Project, talked with Defendants attorney, Ryan Mayberry, and asked about the status of Mr.
Perez's reasonable accommodation request. Ms. Haas told me that Mr. Mayberry stated that his
clients did not intend to honor Mr. Perez's accommodation request.

1
2 14. On November 7, 2007, I spoke with Mr. Mayberry who advised me that his clients
3 intended to proceed with an unlawful detainer. He further told me that he believed this meant that
4 his clients were unwilling to accommodate Mr. Perez's disabilities or even engage in negotiations
5 regarding the accommodation request.

6 15. On November 8, 2007, in one last attempt to avoid litigation, I faxed Defendants
7 another letter, again requesting that Defendants accommodate Mr. Perez's disabilities and setting
8 forth two alternative proposals for Mr. Perez's accommodation. A true and correct copy of my
9 letter to Defendants dated November 8, 2007 is attached hereto as Exhibit II.

10 16. On November 8, 2007, Mr. Perez filed the instant federal court lawsuit. A true and
11 correct copy of Mr. Perez's federal lawsuit is attached hereto as Exhibit I.

12 17. On November 26, 2007, Defendants filed an unlawful detainer action against Mr.
13 Perez in state court. A true and correct copy of the unlawful detainer complaint is attached hereto
14 as Exhibit J.

15 I declare under penalty of perjury that the foregoing is true and correct. Executed on November
16 27, 2007 in San Jose, California.

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18 
19 Annette D. Kirkham